

REMARKS

Claims 1, 6, 8, 10, 12, 20 and 21 remain pending in the present application. Claims 1, 6, 10, 12 and 20 have been amended. Claim 21 is new. Basis for the amendments and new claims can be found throughout the specification, claims and drawings originally filed.

REJECTION UNDER 35 U.S.C. § 103

Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller (U.S. Pat. No. 6,667,555) in view of Keijzer, et al. (U.S. Pat. No. 3,857,580). Applicant respectfully traverses this rejection.

Claim 1 has been amended to define a pressurized gas being the only damping medium disposed in the working chamber and a source for said pressurized gas separate from said working chamber in selective communication with said working chamber.

Miller, et al. discloses a pressure tube forming a working chamber having a damping fluid disposed in the working chamber as the damping medium. There is nothing in Miller, et al. which defines the damping medium as a pressurized gas. Due to the piston located in the lower working chamber as shown in Figures 2 and 3, it appears that there is hydraulic oil disposed in the working chamber as the working fluid. If we assume, for arguments sake, that the damping fluid is a gas, then it can't be a pressurized gas since Figures 2 and 3 clearly illustrate the pressure tube as being open at the top.

Miller, et al. discloses a source of pressurized gas which functions to operate actuator 30 but the source of pressurized gas is not the pressurized gas disposed in the working chamber which is the damping medium. There is no connection disclosed in Miller, et al. between the pressurized gas which operates actuator 30 and the damping fluid in the working chamber. Claim 1, as amended, defines a source for said pressurized gas separate from the working chamber and in selective communication with the working chamber.

Thus, Applicant believes Claim 1, as amended, patentably distinguishes over the art of record. Reconsideration of the rejection is respectfully requested.

Claims 12 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Grundei, et al. (U.S. Pat. No. 5,971,117) and in view of Keijzer, et al. (U.S. Pat. No. 3,857,580). Claim 12 depends from Claim 1 and thus the argument above regarding Miller, et al. applies here also. In addition, Claim 20 has been amended in the same manner as Claim 1 so the argument presented above for Miller, et al. applies here also.

Grundei, et al. discloses two pistons but Grundei, et al. does not disclose a source for the pressurized gas (damping medium) separate from the working chamber. Keijzer, et al. discloses a source of pressurized gas separate from the working chamber but there is nothing disclosed in Keijzer, et al. that this source of pressurized gas is the damping medium disposed in the working chamber. In Keijzer, et al. the source of pressurized gas is used to change the height of the vehicle and nothing is disclosed which teaches or suggests this pressurized gas is the damping fluid.

Thus, Applicant believes Claim 20, as amended, patentably distinguishes over the art of record. Likewise, Claim 12, which depends from Claim 1 discussed above, is also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

NEW CLAIM

New Claim 21 is a new independent claim which Applicant believes reads on the elected species. New Claim 21 defines a first passage through the first piston and a second passage through the second piston and these two passages are the only flow path between the working chambers separated by the respective piston. Grundei, et al. discloses a bead 37 which is a flow path around the piston.

REJOINDER

Applicant respectfully requests the rejoinder of withdrawn Claims 6, 8 and 10.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner

believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: 

Michael J. Schmidt, 34,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MJS/pmg